



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2022-1420; Project Identifier AD-2022-01303-A; Amendment 39-22240; AD 2022-21-51]

RIN 2120-AA64

Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Viking Air Limited (type certificate previously held by Bombardier Inc. and de Havilland, Inc.) Model DHC-3 airplanes. This AD was prompted by multiple recent reports of cracks in the left-hand elevator auxiliary spar. This AD requires repetitive detailed visual inspections of the entire left-hand elevator auxiliary spar for cracks, corrosion, and previous repairs, and depending on the findings, replacement of the left-hand elevator auxiliary spar. This AD also requires sending the inspection results to the FAA. The FAA previously sent an emergency AD to all known U.S. owners and operators of these airplanes and is now issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Emergency AD 2022-21-51, issued on October 4, 2022, which contained the requirements of this amendment, was effective with actual notice.

The FAA must receive comments on this AD by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- Fax: (202) 493-2251.

- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- Hand Delivery: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA-2022-1420; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: James Delisio, Continued Operational Safety Program Manager, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Avenue, Westbury, NY 11590; phone: (516) 228-7300; email: 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 2022, the FAA issued Emergency AD 2022-21-51 (the emergency AD), which requires repetitive detailed visual inspections of the entire left-hand elevator auxiliary spar for cracks, corrosion, and previous repairs, and depending on the findings, replacement of the left-hand elevator auxiliary spar, and sending the inspection results to the FAA. The FAA sent the emergency AD to all known U.S. owners and operators of these airplanes. This action was prompted by multiple recent reports of cracks in the left-hand elevator auxiliary spar. The FAA's analysis of these reports indicates that immediate AD action is warranted. The FAA is issuing this AD to detect and address cracks, corrosion, and previous repairs to the left-hand elevator auxiliary spar. This condition, if not addressed, could result in elevator flutter leading to elevator failure, with consequent loss of control of the airplane. The FAA has coordinated this issue with Transport Canada, which is the aviation authority for Canada. Transport Canada issued

AD CF-2018-04, dated January 19, 2018 (Transport Canada AD CF-2018-04), which includes a requirement for inspecting elevator assemblies for corrosion.

The FAA issued a notice of proposed rulemaking that published in the *Federal Register* on February 8, 2022 (87 FR 7059) in response to Transport Canada AD CF-2018-04, and is currently addressing comments. As an interim action, the FAA issued the emergency AD, as a result of the recent reports, to mandate an inspection of the left-hand elevator auxiliary spar and replacement if necessary.

FAA's Determination

The FAA is issuing this AD because the agency has determined that an unsafe condition is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires repetitive detailed visual inspections of the entire left-hand elevator auxiliary spar for cracks, corrosion, and previous repairs, and depending on the findings, replacement of the left-hand elevator auxiliary spar. This AD also requires sending the inspection results to the FAA.

Interim Action

The FAA considers this AD to be an interim action. If final action is later identified, the FAA might consider further rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that required the immediate adoption of Emergency AD 2022-21-51, issued on October 4, 2022, to all known U.S. owners and operators of these airplanes. The FAA found that the risk to the flying public justified waiving notice

and comment prior to adoption of this rule because cracks in the left-hand elevator auxiliary spar, if not addressed, could result in elevator flutter leading to elevator failure, with consequent loss of control of the airplane. Accordingly, the FAA determined that a detailed visual inspection of the entire left-hand elevator auxiliary spar must be performed immediately. These conditions still exist, therefore, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under ADDRESSES. Include “Docket No. FAA-2022-1420; Project Identifier AD-2022-01303-A” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important

that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to James Delisio, Continued Operational Safety Program Manager, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Avenue, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 68 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

Estimated costs

Action	Labor Cost	Parts Cost	Cost per product	Cost on U.S. operators
Inspection	2 work-hours x \$85 per hour = \$170	Not Applicable	\$170 per inspection	\$11,560 per inspection
Reporting Requirement	1 work-hour x \$85 per hour = \$85	Not Applicable	\$85 per inspection	\$5,780 per inspection

The FAA estimates the following costs to do any necessary replacement that would be required based on the results of the inspection to the left-hand elevator auxiliary spar. The agency has no way of determining the number of airplanes that might need this replacement:

On-condition costs

Action	Labor Cost	Parts Cost	Cost per product
Left-hand elevator	16 work-hours x	\$265	\$1,625

auxiliary spar replacement	\$85 per hour = \$1360		
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Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

Authority for this Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39 - AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022-21-51 Viking Air Limited (type certificate previously held by Bombardier Inc. and de Havilland, Inc.): Amendment 39-22240; Docket No. FAA-2022-1420; Project Identifier AD-2022-01303-A.

(a) Effective Date

The FAA issued Emergency Airworthiness Directive (AD) 2022-21-51, on October 4, 2022, directly to affected owners and operators. As a result of such actual notice, that AD was effective for those owners and operators on the date it was provided. This AD contains the same requirements as that emergency AD and, for those who did not receive actual notice, is effective on [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(b) Affected ADs

None.

(c) Applicability

This AD applies to Viking Air Limited (type certificate previously held by Bombardier Inc. and de Havilland, Inc.) Model DHC-3 airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5520, Elevator Structure.

(e) Unsafe Condition

This AD was prompted by multiple recent reports of cracks in the left-hand elevator auxiliary spar. The FAA's analysis of these reports indicates that immediate AD action is warranted. The FAA is issuing this AD to detect and address cracks, corrosion, and previous repairs to the left-hand elevator auxiliary spar. The unsafe condition, if not addressed, could result in elevator flutter leading to elevator failure, with consequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definition of Corrosion

The definition of Levels 1, 2, and 3 corrosion are specified in Advisory Circular 43-4B, *Corrosion Control for Aircraft*, dated September 11, 2018. You may find this document at [drs.faa.gov/search](https://www.faa.gov/ads/search).

(h) Inspection

(1) Within 10 hours time-in-service (TIS) or 3 days after effective date of this AD, whichever occurs first, unless already done within the last 90 days, and thereafter at intervals not to exceed 110 hours TIS, remove the left-hand elevator tab from the elevator and perform a detailed visual inspection of the entire left-hand elevator auxiliary spar for cracks, corrosion, and previous repairs. For the purposes of this AD, structural reinforcements are not considered previous repairs.

(2) If any crack, corrosion beyond Level 1, or previous repair is found during any inspection required by this AD, before further flight, replace the left-hand elevator auxiliary spar.

(i) Reporting Requirements

Within 10 days after each inspection, report the results of the inspection to the FAA at 9-avs-nyaco-cos@faa.gov. Include the airplane serial number, airplane hours TIS, auxiliary spar TIS (if known), and any crack, corrosion beyond Level 1, or previous repair that is found.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the New York ACO Branch, mail it to ATTN: Program Manager, Continuing Operational Safety, at the address identified in paragraph (k) of this AD or email to: 9-avs-nyaco-cos@faa.gov. If mailing information, also submit information by email.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

For more information about this AD, contact James Delisio, Continued Operational Safety Program Manager, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Avenue, Westbury, NY 11590; phone: (516) 228-7300; email: 9-avs-nyaco-cos@faa.gov.

(l) Material Incorporated by Reference

None.

Issued on November 4, 2022.

Christina Underwood, Acting Director,
Compliance & Airworthiness Division,
Aircraft Certification Service.

[FR Doc. 2022-25046 Filed: 11/14/2022 4:15 pm; Publication Date: 11/16/2022]